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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

14 SOCIALAPPS, LLC, d/b/a take(5)social
15 and playSocial, a California company,
16 Plaintiff,
17 v.
18 ZYNGA, INC., a California corporation;
19 ZYNGA GAME NETWORK, INC., a
20 California corporation; and DOES 1
21 through 10, inclusive,
22 Defendants.
23) CASE NO. 4:11-CV-04910 YGR
) SECOND AMENDED COMPLAINT FOR
) DAMAGES
) COUNTS:
) 1. COPYRIGHT INFRINGEMENT;
) 2. VIOLATIONS OF CALIFORNIA
) UNIFORM TRADE SECRETS ACT
) (CAL. CIV. CODE § 3426 *ET SEQ.*);
) 3. BREACH OF WRITTEN CONTRACT;
) 4. BREACH OF IMPLIED-IN-FACT
) CONTRACT;
) 5. BREACH OF CONFIDENCE; AND
) 6. BREACH OF IMPLIED COVENANT
) OF GOOD FAITH AND FAIR
) DEALING
) 7. UNJUST ENRICHMENT

DEMAND FOR JURY TRIAL

1 TO THE COURT, ALL PARTIES AND THEIR COUNSEL:

2 Pursuant to the Court's February 6, 2012 Order granting in part and denying in part
3 the motion to dismiss portions of the First Amended Complaint [Dkt. 36], Plaintiff hereby
4 submits the following Second Amended Complaint:

5

6 **SECOND AMENDED COMPLAINT FOR DAMAGES**

7

8 **JURISDICTION AND VENUE**

9 1. These causes of action arise under the provisions of the Copyright Act (17
10 U.S.C. §§ 101, 501), the law of the State of California and the common law. This Court has
11 subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a) and 15 U.S.C. §1125.
12 This Court has subject matter jurisdiction over the state law causes of action under 28
13 U.S.C. §1367(a) because these are claims that are so related to claims within the original
14 jurisdiction of this Court under the copyright and unfair competition laws of the United
15 States that they form part of the same case or controversy.

16 2. Venue in this judicial district is proper under 28 U.S.C. §1391(b) and (c)
17 because the events giving rise to this action occurred in this district, namely Defendants
18 have, among other acts, marketed and sold in this district products that infringe Plaintiff's
19 copyrights, and because the Defendants' actions have resulted in Copyright Act violations
20 and unfair competition throughout the State of California, including in this venue.

21

22 **THE PARTIES**

23 3. Plaintiff SocialApps, LLC d/b/a playSocial and take(5)social ("Plaintiff") is
24 and was at all times relevant herein a California company and a citizen of California in Los
25 Angeles County. Plaintiff's primary business is developing, posting and maintaining online
26 social network games for sale. Plaintiff owns all rights to the myFarm game, has been
27 assigned all of Michael Yager and DesignerMichael, LLC's rights therein and owns
28 playSocial and its assets.

1 4. Defendants Zynga, Inc. and Zynga Game Network, Inc.¹ (jointly, "Zynga") are
 2 corporations with their headquarters located in San Francisco, California. Zynga also has
 3 locations in Los Angeles, California and Los Gatos, California. Zynga is and was at all
 4 times herein a direct competitor of Plaintiff because Zynga's primary business is and was at
 5 all times herein developing, posting and maintaining online social network games for sale.
 6 Zynga markets and sells its social network game services throughout the entire United
 7 States, including throughout all of California.

8 5. The true names and capacities of Defendants Does 1-10 are unknown to
 9 Plaintiff, and Plaintiff will seek leave of Court to amend this complaint to allege such names
 10 and capacities as soon as they are ascertained.

11 6. Whenever Plaintiff refers to any act, deed, or conduct of "Defendants," said
 12 references mean that Zynga and DOES 1-10 engaged in the acts, deeds or conduct by and
 13 through one or more of its officers, directors, agents, employees or representatives who
 14 were actively engaged in the management, direction, control or transaction of Defendants
 15 Zynga and DOES 1-10's ordinary business affairs.

16 7. Plaintiff is informed and believes and thereon alleges that at all times relevant
 17 hereto each of the Defendants, including without limitation the Doe Defendants, was the
 18 agent, affiliate, officer, director, manager, principal, alter-ego and/or employee of the other
 19 Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego
 20 relationship and/or employment and actively participated in, or subsequently ratified and
 21 adopted, or both, each and all of the acts or conduct alleged herein, with full knowledge of
 22 all the facts and circumstances, including, but not limited to, full knowledge of each and all
 23 of the violations of Plaintiff's rights and the damages to Plaintiff proximately caused
 24 thereby.

25
 26 ¹ Zynga has represented that "'Zynga Game Network Inc.' is not an extant corporation, but
 27 rather is Zynga, Inc.'s former corporate name." Dkt. #9, p. 2 n.1. However, since discovery
 28 has not yet commenced, Plaintiff names Zynga Game Network Inc. again in an abundance
 of caution since the party to the written agreement was Zynga Game Network Inc.

1

2 GENERAL ALLEGATIONS

3 8. Prior to November 2008, Plaintiff invested substantial time, resources and
 4 funds to develop “myFarm,” the first farming social network game that allowed players to
 5 create their own virtual farms, raise virtual produce and animals and harvest their virtual
 6 farm goods to trade with or sell to other players. Seeking to capitalize on the meteoric rise
 7 of social network gaming platforms accessed through Facebook, Plaintiff created and first
 8 publicly released myFarm on Facebook in or about November 2008.

9 9. Among other unique features, to enhance the myFarm playing experience,
 10 Plaintiff created a unique system in which players have the option to use “myFarm Credits.”
 11 Players acquire myFarm Credits by either (1) purchasing them from Plaintiff’s
 12 clearinghouse partner or (2) partaking in listed surveys and offers by advertising partners.
 13 With the myFarm Credits, players buy virtual myFarm Cash to develop their farms, activate
 14 other game features and support the game. Plaintiff’s myFarm Credits and myFarm Cash
 15 features are the means by which myFarm generates its revenues.

16 10. In or about May 2009, Defendants approached Plaintiff in an attempt to acquire
 17 the intellectual property rights, confidential information and source code for myFarm. On
 18 May 19, 2009, Defendants and Plaintiff entered into a Letter Agreement and Term Sheet
 19 providing key business terms and for confidentiality concerning both the transaction and
 20 any company information—including proprietary source code and confidential
 21 information—that Plaintiff provided to Defendants in what Defendants called their “due
 22 diligence.” Under both the express terms of the Letter Agreement and implied through
 23 Defendants and Plaintiff’s words and conduct and industry norms, Plaintiff and Defendants
 24 had a bilateral expectation that if Defendants used Plaintiff’s myFarm concept and distinct
 25 features, Defendants would compensate and credit Plaintiff for such use.

26 11. Using the ruse of “due diligence,” Defendants required Plaintiff to produce its
 27 confidential source code and other proprietary and confidential information for myFarm,
 28 and Plaintiff provided Defendants with the source code and other proprietary and

1 confidential information Zynga requested under a reasonable belief that Defendants were in
2 fact performing their due diligence and that Defendants would abide by the confidentiality
3 terms binding them. By providing this confidential source code and other proprietary and
4 confidential information, Plaintiff revealed to Defendants numerous aspects of myFarm's
5 functionality, including its processes for using myFarm Credits, myFarm's key feature for
6 generating revenue.

7 12. During Zynga's "due diligence" ruse, Plaintiff also revealed to Defendants
8 numerous confidential functions, publicly unavailable artwork, functions, and game-play
9 features that were intended for future publication of Plaintiff's subsequent versions of the
10 game. The then-unreleased aspects of myFarm that Plaintiff shared with Zynga in the "due
11 diligence" process included, but were not limited to, the following categories of functions,
12 artwork and features: neighbor interfaces, badge interfaces, game play items, icons artwork,
13 badge icons and pop-ups.

14 13. Shortly after Plaintiff provided Defendants with the confidential source code
15 and other proprietary and confidential information that Defendants requested, Defendants
16 ceased communicating with Plaintiff. Although Plaintiff was not aware of it at the time
17 Zynga took Plaintiff's confidential source code and other proprietary and confidential
18 information, Defendants used their ruse of due diligence to access Plaintiff's confidential
19 source code and other information. Plaintiff is informed and believes that, shortly
20 thereafter, Defendants intentionally and deliberately used Plaintiff's confidential source
21 code and other proprietary and confidential information to clone myFarm's key features and
22 future key features as part of a campaign to wrongfully divert revenues from myFarm and
23 generate additional revenues.

24 14. Defendants never compensated or credited Plaintiff for using myFarm's
25 confidential source code and other proprietary and confidential information. Defendants
26 also never obtained Plaintiff's permission to use the source code and other proprietary and
27 confidential information. Despite this, Plaintiff is informed and believes Defendants used
28 Plaintiff's source code and other proprietary and confidential information when it first

1 released “FarmVille” on or about June 19, 2009. Until Defendants’ June 19, 2009 release
 2 of FarmVille, Plaintiff neither knew nor had reason to know that Defendants used its
 3 myFarm confidential source code and other proprietary and confidential information
 4 without compensating Plaintiff or Plaintiff’s permission.

5 15. On or about June 13, 2011, Plaintiff applied to register myFarm source code
 6 with the United States Copyright Office, Service Request No. 1-621918421, which has now
 7 received Registration No. TX0007407186.

8 16. Among other items, the registered work includes (a) source code, (b) layout
 9 and arrangement, (c) visual presentation, (d) sequence and flow, (e) scoring system, (f)
 10 artwork and (g) myFarm’s overall look. myFarm has at least twenty distinct command
 11 terms. Players must use these terms in order to advance through the game. Players use at
 12 least the following twenty distinct command terms to increase their myFarm Credits and/or
 13 myFarm Cash to improve their ranking by building a bigger and/or higher yield farms:

- 14 • **Store**: Players purchase items from the store to use on their farm. The
 15 store is divided into separate departments. Each department contains
 16 specific items that the player may purchase and use on their farm. These
 17 departments are: Specialty, Seeds, Animals, Trees, Buildings, Vehicles,
 18 Decorations, Eggs, Flowers, Fisheries, Fences, Gnomes, Topiaries.
- 19 • **Plant Crops**: Players purchase various seeds from the store to plant on
 20 their farm. Once planted crops will grow based on a growth rate
 21 assigned to each crop type. Crops available for planting include
 22 pumpkins, beets, cotton, sunflower, strawberries, tomatoes, rice, corn,
 23 potatoes and wheat.
- 24 • **Harvest Crops**: When a crop is fully grown the player can harvest that
 25 crop to earn myFarm Cash.
- 26 • **Dead Crops**: If a player does not harvest a crop within the harvest
 27 period the crop will die and the player must discard the crop and replant
 28 it.

- **Plant Trees:** Players purchase various trees from the store to plant on their farm. Once planted trees will grow based on a growth rate assigned to each tree type.
- **Harvest Trees:** When a tree is fully grown the player can harvest that tree to earn myFarm Cash.
- **Plow Fields:** Players must plow field tiles before they can plant crops on that field.
- **Grow Animals:** Players purchase various animals from the store to place on their farm. Once placed the animal will grow based on a growth rate for each animal type.
- **Sell Animals:** Players can sell fully grown animals to earn myFarm Cash.
- **Gifts:** Players can send animals and trees to their friends as gifts and can receive animals and trees from their friends as gifts. Gifts received can be retrieved from a gifts window in the game and placed on the player's farm.
- **Place Buildings:** Players purchase various buildings from the store to place on their farm. Some buildings are decorative while others provide an advantage to the player when placed on their farm.
- **Multi-Function Tools:** Players purchase various multi-function tools from the store to use on their farm. Multi-function tools allow the player to perform certain actions in the game more easily such as plowing multiple fields at a time and harvesting multiple crops and trees at a time.
- **Grow and Send Flowers As Gifts:** Players can purchase various flowers from the store, plant and grow them. Once fully grown players can send those flowers to a friend as a gift.
- **Visit Friend's Farm:** Players can visit and view a friend's farm.

- **Snapshots:** Players can create a photo snapshot of their farm that they can post to the social network and share with their friends.
- **Zoom In/Out:** Players can zoom the viewable area of their farm in and out to give the player either a larger or more detailed view of the farm area.
- **Fullscreen View:** Players can change to a fullscreen view of the game to maximize the viewable area of their farm.
- **Tile Based Isometric View:** The game uses a bird's eye pseudo 3-D view such that the tile arrangements to give the perception of a 3-D virtual world.
- **myFarm Cash:** Players earn and spend myFarm cash to advance in the game. Certain items from the store can be purchased for myFarm Cash.
- **myFarm Credits:** Players can purchase and spend myFarm credits on premium items not available for myFarm Cash .

17. Plaintiff is informed and believes that Defendants used and continue to use each of the above command terms and confidential features from Plaintiff's myFarm game to create, maintain and generate substantial revenues from Defendants' FarmVille game.

18. Plaintiff is also informed and believes that Defendants used and continues to use Plaintiff's confidential source code and other proprietary and confidential information to create, maintain, and generate substantial revenues from Defendants' other popular virtual world games including but not limited to FrontierVille, CityVille, and FishVille. ("Other Virtual World Games").

FIRST CAUSE OF ACTION

COPYRIGHT INFRINGEMENT (17 U.S.C. §§ 101, ET SEQ.)
(Against All Defendants)

19. Plaintiff repeats, alleges and incorporates by reference the allegations contained in this Complaint as though fully set forth herein.

1 20. Plaintiff owns the copyright to the myFarm source code identified above.

2 21. Defendants have deliberately and intentionally infringed on Plaintiff's
 3 copyright without authorization, in direct violation of the Copyright Act, 17 U.S.C. §§ 106
 4 and 501. On information and belief, such infringing conduct includes, but is not limited to,
 5 Defendants' copying of myFarm's (a) source code, (b) layout and arrangement, (c) visual
 6 presentation, (d) sequence and flow, (e) scoring system, (f) artwork and (g) myFarm's
 7 overall look in the creation and maintenance of FarmVille and the Other Virtual World
 8 Games.

9 22. Defendants' infringing conduct includes, **but is not limited to**, the misconduct
 10 set forth in the following paragraphs.

11 23. Defendants Copied the Layout and Arrangement of Main Menu. Defendants'
 12 main menus are creatively structured around at least fifteen distinct command terms: (1)
 13 Gifts, (2) Plow Fields, (3) Plant Crops, (4) Harvest Crops, (5) Grow Animals, (6) Sell
 14 Animals, (7) Place Buildings, (8) Sell Buildings, (9) Multi-Function Tools, (10) Plant Trees,
 15 (11) Harvest Trees, (12) Store, (13) Zoom In/Out, (14) Fullscreen View, and (15)
 16 Snapshots. Defendants copied at least all fifteen of these command terms and arranged the
 17 command terms, along with a similar description of each command term, in a format nearly
 18 identical to that of myFarm.

19 24. Defendants Copied the Individual Screen Displays and Content for Each
 20 Command Term. As an example, Defendants' screen display and content for the FarmVille
 21 "Market" is nearly identical to myFarm's "Store." An essential part of both myFarm and
 22 FarmVille is the buying and gifting of supplies. Both screen displays provide users with a
 23 selection of "Departments" to shop in and each "Department" contains items for purchase
 24 along with the pricing of each. In both games, users can choose to buy for themselves or
 25 "gift" items to a friend. As demonstrated in the table and screenshots below, the
 26 departments and items for sale in each game are nearly identical:



myFarm Store		FarmVille Market	
Department: "Specialty"		Department: "Specials"	
Items for Purchase: Get Gnomes		Items for Purchase: Detective Gnome	
Ducks		Duck Pond	
Department: "Seeds"		Department: "Seeds & Trees"	
Items for Purchase: Cotton		Items for Purchase: Cotton	
Strawberries		Strawberries	
Wheat		Wheat	
Tomatoes		Tomatoes	
Sunflower		Sunflowers	
Corn		Corn	
Pumpkins		Pumpkins	
Rice		Rice	
Potatoes		Potatoes	
Department: "Animals"		Department: "Animals"	
Items for Purchase: Pig		Items for Purchase: Pot Belly Pig	
Pink Pig		Purple Boar	
WhiteBrown Pig		Saddleback Pig	

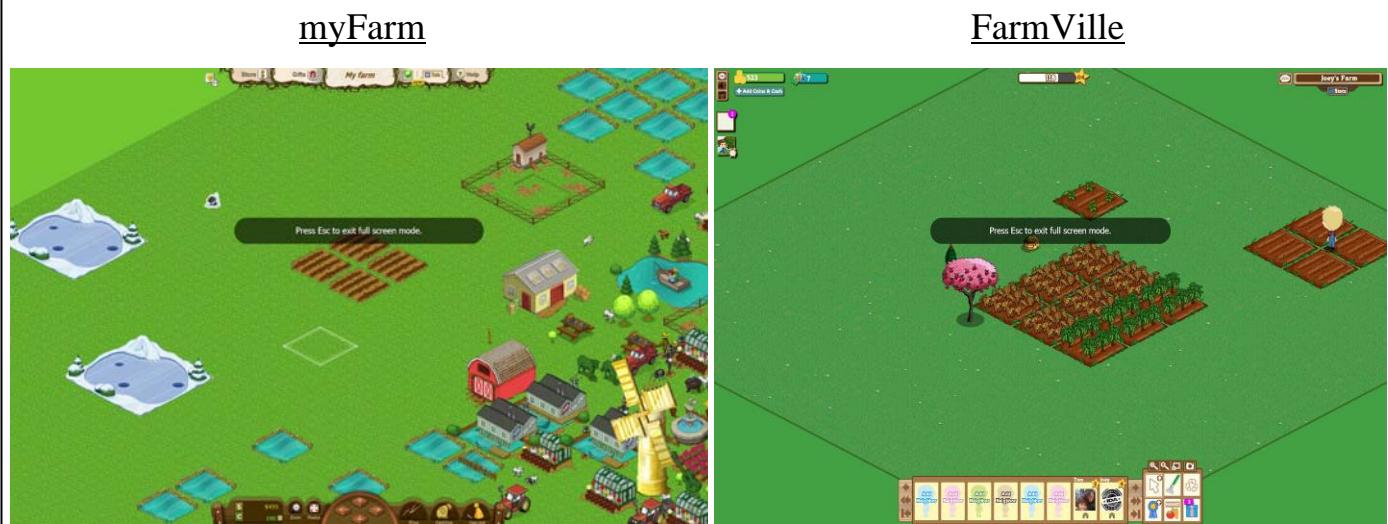
1	Goat	English Goat
2	Black Horse	Hackney Horse
3	Brown Horse	Autumn Horse
4	Black Stallion	Forest Horse
5	Brown Cow	Hereford Cow
6	Cow	Cow
7	Black Cow	Belted Cow
8	Rhode Island	Rhode Island Red
9	Barred Chicken	Black Chicken
10	Turkey	Wild Turkey
11	Department: "Trees"	Department: "Seeds & Trees"
12	Items for Purchase:	Apple Tree
13		Peach Tree
14		Pear Tree
15		Asian Pear
16		Coconut Tree
17		Banana Tree
18		Orange Tree
19		Mango Tree
20		Plum Tree
21	Department: "Buildings"	Department: "Buildings"
22	Items for Purchase:	Chicken Coop
23		Woodshed
24		White House
25		Yellow House
26		Stone House
27		Brick House
28		Mansion
		Storage Shed
		Tool Shed

1	Barn	Pink Barn
2	Department: "Vehicles"	
3	Items for Purchase:	Red Tractor
4		Yellow Combine
5		Red Combine
6		Seeder
7		ATV
8	Department: "Farm Aides"	
9	Items for Purchase:	Tractor
10		Combine Chassis
11		Hod Rod Combine
12		Seeder
13		Harvester
14	Department: "Decorations"	
15	Items for Purchase:	Duck Pond
16		Misty Lake
17		Hay Bale
18		Black Scarecrow
19		Blue Scarecrow
20		Scarecrow
21		Wind Turbine
22	Department: "Flowers"	
23	Items for Purchase:	Majestic Roses
24		Red Tulips
25		Lilies
26		Purple Poppies
27		Orange Daisies
28	Department: "Seeds & Trees"	
29	Items for Purchase:	Stone Wall
30		Country Fence
31		Whitewash Fence
32	Department: "Fences"	
33	Items for Purchase:	Pig Topiary
34		Cow Topiary
35	Department: "Decorations"	
36	Items for Purchase:	Pig Topiary
37		Cow Topiary

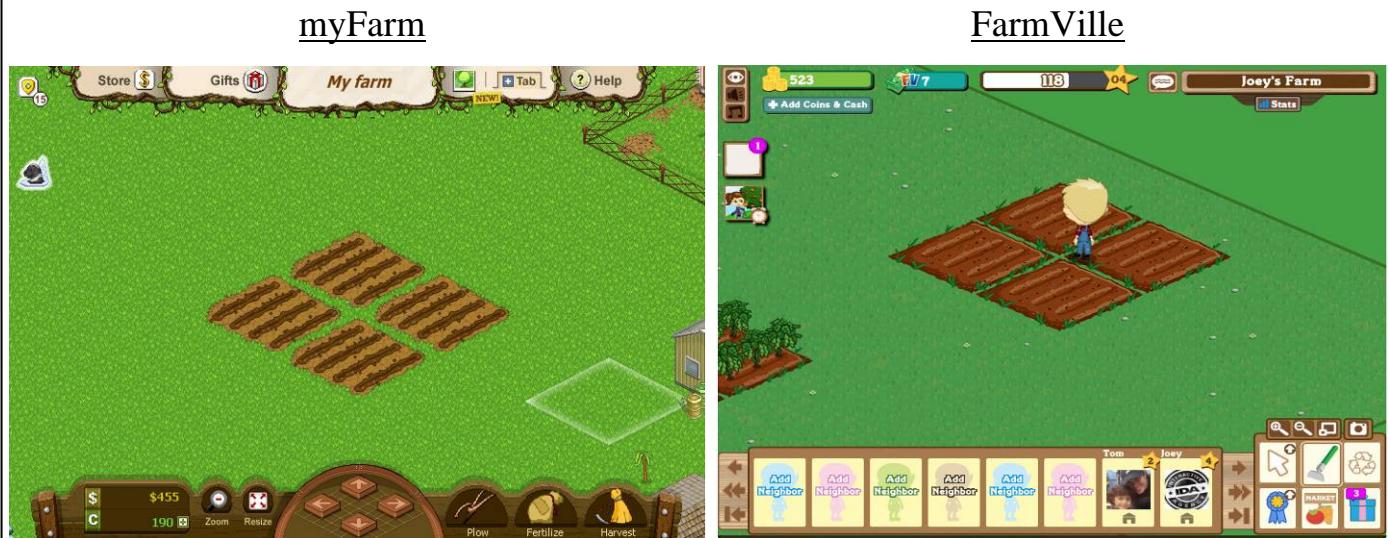
1	Sheep Topiary	Sheep Topiary
2	Horse Topiary	Horse Topiary

4 The similarities exemplified by the above table are indicative of the similarities of
5 many command terms used by both myFarm and FarmVille. The screenshots provided
6 below further show that FarmVille is an obvious imitation of myFarm. These examples are
7 not all inclusive of the functions copied by Defendant:

8 • The FarmVille fullscreen view function infringes the myFarm's fullscreen view
9 function:



19 • The FarmVille plowed fields 3D bird's eye view and arrangement of tiles infringes
20 myFarm's plowed fields 3D bird's eye view and arrangement:



- The FarmVille Gift/Gift Box window displaying the gifts a player receives infringes the myFarm Gift/Gift Box window:



- Select Friends Function. The arrangement and layout of these pages are very similar.



- The FarmVille take snapshot function infringes the myFarm take snapshot function:

1 myFarm2 FarmVille

11 • The FarmVille zoom functionality infringes the myFarm zoom functionality:

12 myFarm13 FarmVille14 myFarm

- The FarmVille send gifts arrangement and layout infringes the myFarm send gifts arrangement and layout:

myFarm

FarmVille



- Farmville infringes the general game economics of myFarm.

myFarm



FarmVille



myFarm Economics				FarmVille Ecomomics			
Crop	Cost	Harvest	Produces	Crop	Cost	Harvest	Produces
Strawberries	\$0.52	1 Day	\$190	Strawberries	10 Coins	4 Hours	35 Coins
Corn	\$1.27	2 Days	\$185	Corn	150 Coins	3 Days	380 Coins
Tomatoes	\$1.23	1 Day	\$165	Tomatoes	100 Coins	8 Hours	173 Coins
Rice	\$0.45	2 Days	\$290	Rice	45 Coins	12 Hours	96 Coins
Potatoes	\$1.31	3 Days	\$220	Potatoes	135 Coins	3 Days	345 Coins
Wheat	\$0.84	3 Days	\$240	Wheat	13 Coins	12 Hours	61 Coins

25. Defendants Copied the Sequence and Flow of myFarm. Players in both games are confined to the same parameters based on time, credits, cash, experience and size of players' farm. Players must efficiently use their skill and calculation to build their farms, purchase features and virtual goods, acquire property, grow virtual farm goods and trade or gift with other players. myFarm's sequence and flow is copied because players of both games are required to strategically balance the following criteria: (1) growth rate of individual crops, (2) item yield from harvesting individual crops, (3) growth rate of individual trees, (4) item yield from harvesting individual trees, (5) utilize multi-function

1 tools to increase planting/harvesting rates, and (6) send gift items to friends in order to
 2 entice friends to reciprocate and receive gift items in exchange.

3 26. Defendants Copied the Credit/Cash System in myFarm. The Credit/Cash
 4 system in FarmVille and Zynga's Other Virtual World Games is substantially similar to the
 5 Credit/Cash system in myFarm in the following ways: (1) players spend myFarm Cash on
 6 trees, animals, crops, buildings, and multi-function tools to advance their farm, (2) players
 7 earn myFarm Cash by harvesting crops and trees and by selling buildings and animals, (3)
 8 players receive myFarm Credits by purchasing them through a payment processing partner
 9 or participating in offers provided by 3rd party partners, (4) players spend myFarm Credits
 10 to obtain premium items for use in myFarm.

11 27. Defendants Copied The Overall Plot, Theme, Mood, Setting, Pace, Characters,
 12 and Sequence of myFarm. As demonstrated above, FarmVille copied the physical and
 13 operational aspects of myFarm by copying the layout and arrangement of myFarm, the
 14 visual presentation of each screen display within the game, the sequence and flow of the
 15 game, the Credit/Cash system used by the game, and the overall look and feel of the game.
 16 Furthermore, Defendants copied the underlying premise behind the game, which is to build
 17 your virtual farm, generate credits and cash by raising and selling virtual farm goods, and
 18 trading with and/or gifting to other users on the social networking website or by purchasing
 19 credits from Plaintiff's clearinghouse. Therefore, Defendants copied the same plot, theme,
 20 mood, setting, pace, characters, and sequence of events from myFarm.

21 28. Defendants Used the Command Terms and Confidential Features of myFarm to
 22 Create its Other Virtual World Games. Plaintiff is informed and believes that Defendants
 23 copied myFarm's (a) source code, (b) layout and arrangement, (c) visual presentation, (d)
 24 sequence and flow, (e) scoring system, and (f) overall look in order to create Other Virtual
 25 World Games. Below are example functions that Defendant's copied from myFarm and
 26 used in Other Virtual World Games. These examples are not all inclusive of Defendants'
 27 infringing misconduct.

28

- The CityVille fullscreen view and functionality infringe the myFarm fullscreen view and functionality:

myFarm



CityVille



- The FishVille snapshot interface infringes the myFarm snapshot interface:

myFarm



FishVille



1

2 • The FrontierVille send gifts feature infringes the myFarm send gifts feature:

3 myFarm



3 FrontierVille



• The FrontierVille store/market infringes the myFarm store/market:

myFarm Store	FrontierVille Market
Department: "Seeds"	Department: "Crops"
Items for Purchase:	Pumpkins
	Tomatoes
	Potatoes
	Corn
	Wheat
Department: "Animals"	Department: "Animals"
Items for Purchase:	Chicken
	Goat
	Pig
	Cow
	Chicken
	Goat
	Pig
	Cow

1	Department: "Trees"	Department: "Seeds & Trees"
2	Items for Purchase: Apple Tree	Items for Purchase: Apple Tree
3	Cherry Tree	Cherry Tree
4	Peach Tree	Peach Tree
5	Pear Tree	Pear Tree
6	Department: "Buildings"	Department: "Buildings"
7	Items for Purchase: Barn	Items for Purchase: Barn
8	Department: "Fences"	Department: "Decorations"
9	Items for Purchase: Brown Fence	Items for Purchase: Brown Fence
10	Barbed Wire	Wire Fence
11	Stone Wall	Stone Border
12	Department: "Decorations"	Department: "Decorations"
13	Items for Purchase: Hay Stack	Items for Purchase: Hay Bale

15 29. Each infringement by Defendants constitutes a separate and distinct act of
 16 infringement against myFarm.

17 30. Defendants' acts of infringement are willful, in disregard of and with
 18 indifference to the rights of Plaintiff. At no time did Plaintiff authorize Defendants to
 19 reproduce, adapt, or distribute myFarm.

20 31. Each player that is wrongfully diverted to FarmVille and Zynga's Other Virtual
 21 World Games constitutes an entire network of social connections and related revenues.

22 32. As a direct and proximate result of Defendants' infringement of Plaintiff's
 23 rights, Plaintiff has sustained, and will continue to sustain, substantial injury, loss, and
 24 damages in an amount exceeding \$100,000.00 and as will be proven at trial.

25 33. Plaintiff is entitled to a permanent injunction restraining Defendants, their
 26 officers, directors, agents, employees, representatives and all persons acting in concert with
 27 them from engaging in further acts of copyright infringement.

28 34. Plaintiff is further entitled to recover from Defendants the gains, profits and

1 advantages Defendants have obtained as a result of their acts of copyright infringement.
 2 Plaintiff is at present unable to ascertain the full extent of the gains, profits and advantages
 3 Defendants have obtained by reason of their acts of copyright infringement, but Plaintiff is
 4 informed and believes, and on that basis alleges, that Defendants obtained such gains,
 5 profits and advantages in an amount vastly exceeding \$500,000.00.

6

7 **SECOND CAUSE OF ACTION—VIOLATIONS OF CALIFORNIA UNIFORM**
 8 **TRADE SECRETS ACT (CAL. CIV. CODE §§ 3426, ET SEQ.)**
 9 **(Against All Defendants)**

10 35. Plaintiff repeats, alleges and incorporates by reference the allegations
 11 contained in this Complaint as though fully set forth herein.

12 36. As a result of its substantial time, resources and funds to develop myFarm,
 13 Plaintiff was and is the sole owner and/or possessor of its proprietary source code, as well as
 14 myFarm's various functions, images and features.

15 37. During Zynga's "due diligence" ruse, Plaintiff provided Defendants with its
 16 proprietary source code, as well as publicly unavailable artwork, functions, and game-play
 17 features that were intended for future publication of Plaintiff's subsequent versions of the
 18 game ("Trade Secrets").

19 38. None of Plaintiff's Trade Secrets were publicly available at the time that
 20 Defendants misappropriated the Trade Secrets.

21 39. Plaintiff's Trade Secrets had economic value in that they contained information
 22 not generally known within the trade and were the culmination of many years of research
 23 and development. Plaintiff made reasonable efforts to ensure that its Trade Secrets
 24 remained a secret by disclosing this information only to those who required this information
 25 to perform their jobs and by requiring those who accessed this information to refrain from
 26 disclosing or disseminating this information.

27 40. Plaintiff's confidential Trade Secrets merit legal protection from Defendants'
 28 misappropriation in that Defendants used the ruse of conducting "due diligence" in

negotiations for purchasing Plaintiff's technology and Plaintiff is informed and believes that Defendant used Plaintiff's Trade Secrets to develop and release FarmVille and its Other Virtual Games, steering users away from Plaintiff's game and generate its own revenues from Plaintiff's technology.

41. Defendants misappropriated Plaintiff's confidential Trade Secrets. Plaintiff is informed and believes that Defendants used Plaintiff's confidential Trade Secrets to develop and release FarmVille and its Other Virtual Games, steering users away from Plaintiff's game and generate its own revenues from Plaintiff's technology. Defendants did this for their own benefit in violation of the confidentiality provisions of at least the Letter Agreement. Defendants then developed and released products that directly competed and continue to compete with Plaintiff's myFarm product, causing Plaintiff to lose valuable revenues and its existing and potential business, goodwill and reputation derived therefrom.

42. As a proximate result of Defendants' misconduct, Plaintiff's business, profits, goodwill and reputation have been damaged in an amount to be determined at trial.

43. Defendants conduct as described herein was despicable and was committed maliciously, fraudulently and oppressively with the wrongful intention of injuring Plaintiff and with a willful and conscious disregard of the rights of Plaintiff. Defendants subjected Plaintiff to cruel and unjust hardship, and via intentional misrepresentation, deceit, or concealment of material facts, Defendants intended to deprive Plaintiff of property or legal rights all to the detriment of Plaintiff and to the financial benefit of Defendants.

44. Defendants' conduct is particularly reprehensible because Plaintiff is informed and believes it was part of a repeated corporate practice and not an isolated occurrence. Plaintiff is informed and believes and thereon alleges that Defendants have substantially increased their profits as a result.

**THIRD CAUSE OF ACTION—BREACH OF WRITTEN CONTRACT
(Against All Defendants)**

45. Plaintiff repeats, alleges and incorporates by reference the allegations

1 contained in this Complaint as though fully set forth herein.

2 46. On or about May 9, 2009, Plaintiff and Defendants entered into a written
 3 agreement with term sheet whereby Plaintiff conditioned an offer to convey concepts and/or
 4 game features for its myFarm game in exchange for Defendants' obligation to pay and
 5 credit Plaintiff for the concepts if Defendants were to use those concepts and/or game
 6 features in social network games. Defendants also agreed not to disclose, divulge or exploit
 7 those concepts and/or game features without Plaintiff's authorization and/or payment and
 8 credit to Plaintiff for use of the concepts and/or game features in social network games.

9 47. Plaintiff performed all conditions, covenants, and promises required on its part
 10 to be performed in accordance with the terms and conditions of its written agreement with
 11 the Defendants.

12 48. Defendants breached and continue to breach their written agreement with
 13 Plaintiff by developing, releasing, maintaining and/or offering for sale features on social
 14 network games using Plaintiff's myFarm concepts and/or game features without
 15 compensating or crediting Plaintiff. Defendants also breached and continue to breach their
 16 written agreement with Plaintiff by using Plaintiff's myFarm concepts and/or game features
 17 without Plaintiff's authorization or permission.

18 49. As a direct and proximate result of Defendants' material breaches of the
 19 written agreement, Plaintiff has suffered and will continue to suffer actual damages in an
 20 amount to be proven at trial.

21

22 **FOURTH CAUSE OF ACTION—BREACH OF IMPLIED-IN-FACT CONTRACT**
 23 **(Against All Defendants)**

24 50. Plaintiff repeats, alleges and incorporates by reference the allegations
 25 contained in this Complaint as though fully set forth herein.

26 51. Beginning in at least May 2009, Plaintiff and Defendants entered into an
 27 implied-in-fact contract, as shown by their course of conduct, whereby Plaintiff conditioned
 28 an offer to convey concepts and/or game features for its myFarm game in exchange for

Defendants' obligation to pay and credit Plaintiff for the concepts and/or game features if Defendants were to use those concepts and/or game features in social network games.

52. By their course of conduct, Defendants voluntarily accepted Plaintiff's disclosures, knowing that using Plaintiff's concepts for and/or game features of myFarm in social network games carried with it an obligation to, at a minimum, compensate and credit Plaintiff for their use.

53. Plaintiff conveyed and Defendants accepted these concepts and/or game features pursuant to the standard custom and practice in the entertainment industry of providing creative concepts to Defendants in exchange for compensation and credit to Plaintiff if Defendant were to use those concepts and/or game features.

54. Plaintiff performed all conditions, covenants, and promises required on its part to be performed in accordance with the terms and conditions of its agreement with the Defendants.

55. Defendants' actions and conduct implied and led Plaintiff to reasonably believe that it would be fully compensated and credited for Plaintiff's concepts for and/or game features of myFarm in social network games should Defendants choose to develop, release, maintain and/or offer for sale such social network games.

56. Defendants breached and continue to breach their implied contract with Plaintiff by developing, releasing, maintaining and/or offering for sale features on social network games using Plaintiff's myFarm concepts and/or game features without compensating or crediting Plaintiff.

57. As a direct and proximate result of Defendants' material breaches of the implied-in-fact contract, Plaintiff has suffered and will continue to suffer actual damages in an amount to be proven at trial.

FIFTH CAUSE OF ACTION—BREACH OF CONFIDENCE (Against All Defendants)

58. Plaintiff repeats, alleges and incorporates by reference the allegations

1 contained in this Complaint as though fully set forth herein.

2 59. Beginning in May 2009, Plaintiff and Defendants also entered into a
 3 confidential relationship, as shown by their course of conduct, whereby Plaintiff
 4 conditioned an offer to convey concepts and/or game features for its myFarm game in
 5 exchange for Defendants' obligation not to disclose, divulge or exploit those concepts
 6 and/or game features without Plaintiff's authorization and/or payment and credit to Plaintiff
 7 for use of the concepts and/or game features in social network games.

8 60. By their course of conduct, Defendants voluntarily accepted Plaintiff's
 9 disclosures, knowing that using Plaintiff's concepts for and/or game features of myFarm in
 10 social network games without Plaintiff's authorization carried with it an obligation to, at a
 11 minimum, compensate and credit Plaintiff for their use.

12 61. Plaintiff conveyed and Defendants accepted these concepts and/or game
 13 features pursuant to the standard custom and practice in the entertainment industry of
 14 providing creative concepts to Defendants in exchange for maintaining their confidentiality,
 15 not disclosing, divulging or exploiting those concepts and/or game features without
 16 Plaintiff's authorization and/or compensation and credit to Plaintiff if Defendant were to use
 17 those concepts and/or game features.

18 62. Plaintiff performed all conditions, covenants, and promises required on its part
 19 to be performed in accordance with the terms and conditions of its agreement with the
 20 Defendants.

21 63. Defendants' actions and conduct implied and led Plaintiff to reasonably believe
 22 that Defendants would not disclose, divulge or exploit those concepts and/or game features
 23 without Plaintiff's authorization and/or compensation and credit to Plaintiff if Defendant
 24 were to develop, release, maintain and/or offer for sale such social network games.

25 64. Defendants breached and continue to breach their confidence with Plaintiff by
 26 developing, releasing, maintaining and/or offering for sale features on social network games
 27 using Plaintiff's myFarm concepts and/or game features without Plaintiff's authorization
 28 and without compensating or crediting Plaintiff.

1 65. As a direct and proximate result of Defendants' material breaches of
2 confidence, Plaintiff has suffered and will continue to suffer actual damages in an amount to
3 be proven at trial.

4

5 **SIXTH CAUSE OF ACTION—BREACH OF THE IMPLIED COVENANT OF**
6 **GOOD FAITH AND FAIR DEALING**
7 **(Against All Defendants)**

8 66. Plaintiff repeats, alleges and incorporates by reference the allegations
9 contained in this Complaint as though fully set forth herein.

10 67. Every contract carries with it the implied covenant of good faith and fair
11 dealing. Having relied on that covenant, Plaintiff entered into each of the written and
12 implied agreements with Defendants.

13 68. Defendants had a duty to act fairly and in good faith with respect to meeting
14 their responsibilities to Plaintiff under each of the agreements.

15 69. Plaintiff performed all conditions, covenants, and promises required on its part
16 to be performed in accordance with the terms and conditions of its agreements with the
17 Defendants.

18 70. Defendants breached and continue to breach their agreements with Plaintiff by
19 developing, releasing, maintaining and/or offering for sale features on social network games
20 using Plaintiff's myFarm concepts and/or game features without compensating or crediting
21 Plaintiff. Defendants also breached and continue to breach their agreements with Plaintiff
22 by using Plaintiff's myFarm concepts and/or game features without Plaintiff's authorization
23 or permission.

24 71. Plaintiff is informed and believes that from the outset of the negotiations with
25 Plaintiff, Defendants never intended to meet their responsibilities to Plaintiff under each of
26 the agreements, including, but not limited to compensating and/or crediting Plaintiff for its
27 concepts and/or game features and refraining from disclosing, divulging or exploiting
28 Plaintiff's concepts and/or game features without Plaintiff's authorization and without

1 compensating or crediting Plaintiff. However, Defendants deceived Plaintiff into believing
2 that they would abide by the terms of the agreement and, at a minimum, not use the ruse of
3 conducting “due diligence” to access Plaintiff’s source code in order to steal Plaintiff’s
4 concepts and/or game features.

5 72. As a direct and proximate result of Defendants' breaches of the implied
6 covenant of good faith and fair dealing, Plaintiff has suffered and will continue to suffer
7 actual damages in an amount to be proven at trial.

8 73. Defendants conduct as described herein was despicable and was committed
9 maliciously, fraudulently and oppressively with the wrongful intention of injuring Plaintiff
10 and with a willful and conscious disregard of the rights of Plaintiff. Defendants subjected
11 Plaintiff to cruel and unjust hardship, and via intentional misrepresentation, deceit, or
12 concealment of material facts, Defendants intended to deprive Plaintiff of property or legal
13 rights all to the detriment of Plaintiff and to the financial benefit of Defendants.

14 74. Defendants' conduct is particularly reprehensible because Plaintiff is informed
15 and believes it was part of a repeated corporate practice and not an isolated occurrence.
16 Plaintiff is informed and believes and thereon alleges that Defendants have substantially
17 increased their profits as a result.

**SEVENTH CAUSE OF ACTION—UNJUST ENRICHMENT
(Against All Defendants)**

21 75. Plaintiff repeats, alleges and incorporates by reference the allegations
22 contained in this Complaint as though fully set forth herein.

23 76. Defendants have been unjustly enriched and continue to be unjustly enriched
24 by their misconduct set forth herein.

25 77. The amounts by which Defendants have been unjustly enriched should be
26 awarded to Plaintiff

78. As a direct and proximate result of Defendants' unjust enrichment, Plaintiff has
suffered and will continue to suffer actual damages in an amount to be proven at trial.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment and relief as follows:

1. For Defendants' profits to be proven at trial;
2. For Plaintiff's lost profits to be proven at trial;
3. For general damages to be proven at trial;
4. For special damages to be proven at trial;
5. For punitive damages, exemplary damages and/or enhancement of damages to be proven at trial;
6. For injunctive relief;
7. For declaratory relief;
8. For statutory damages;
9. For an accounting to be proven at trial;
10. For prejudgment interest;
11. For attorney's fees;
12. For the costs of this action; and
13. For any further legal and equitable relief the Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

Dated: February 17, 2012

**GIRARDI | KEESE
MILORD & ASSOCIATES, P.C.**

By: /s/ Graham B. LippSmith
THOMAS V. GIRARDI
GRAHAM B. LIPPSMITH

MILORD A. KESHISHIAN
Attorneys for Plaintiff